

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TERRENCE F. ROGERS,

Plaintiff,

Case No. 06-15074

v.

Hon. Marianne O. Battani
Magistrate Judge Donald Scheer

NATIONAL LABOR RELATIONS
BOARD,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND GRANTING DEFENDANT'S MOTION TO DISMISS**

Plaintiff Terrence F. Rodgers filed his Complaint in Wayne County Circuit Court on October 13, 2006. Defendant timely removed and filed its request that the Complaint be dismissed. In his response, Plaintiff moved for a change of venue. The matter was referred to Magistrate Judge Donald A. Scheer, pursuant to 28 U.S.C. § 636(b)(1)(B).

In a Report and Recommendation ("R&R") dated January 31, 2007, Magistrate Judge Scheer recommended that Plaintiff motion be denied and Defendant's motion be granted. The Magistrate Judge further informed the parties that objections to the R&R must be filed within ten days of service and that a party's failure to file objections would waive any further right of appeal. Neither party filed an objection. Because Plaintiff did not timely object to the Magistrate Judge's Report and Recommendation, the Court dismissed the Complaint and entered a judgment for Defendant.

After this case was closed, the Court received an Objection to the Report and Recommendation, in which Plaintiff asked the Court to grant his Motion for Change of Venue. Because Plaintiff's never received a copy of the Report and Recommendation, the Court vacated its order and gave Plaintiff additional time to file his objections. Plaintiff has filed an objection

and moved “for joinder of claims.”

Upon filing of objections, “[a] judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

Plaintiff’s objection fails to identify any error in the Report and Recommendation. Instead, he reiterates the arguments advanced before the Magistrate Judge. None of the arguments demonstrate that the Court has subject matter jurisdiction. The Court further agrees with the Magistrate Judge that Plaintiff’s attempt to recast his claim as a state law discrimination claim is undermined by a plain reading of the Complaint. Accordingly, the Court **ADOPTS** the Magistrate Judge’s recommendation and **GRANTS** Defendant’s Motion to Dismiss and **DENIES** Plaintiff’s Motion for Change of Venue.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATE: March 22, 2007

CERTIFICATE OF SERVICE

A copy of this Order was e-filed and/or mailed to Terrence Rodgers and Eric G. Moskowitz this date.

s/Bernadette M. Thebolt
Deputy Clerk